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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/618,252	03/18/96	HUNT G	9501

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JACKSON MI 49201

C5M1/0812

EXAMINER

MARCELO, E

ART UNIT	PAPER NUMBER
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3503

4

DATE MAILED: 08/12/97

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**08/618,252**

Applicant(s)

**Hunt**

Examiner  
**Emmanuel M. Marcelo**

Group Art Unit  
**3503**



☒ Responsive to communication(s) filed on May 15, 1997

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-7 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-7 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☒ The proposed drawing correction, filed on May 15, 1997 is ☒ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on May 15, 1997 have been approved.

Claims 5-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 5, lines 4-5, "the extended longitudinal projection" lacks positive antecedent basis in the claims.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the acknowledged prior art (figures 1 and 2) in view of FR 2,462,619 (hereinafter French '619). The acknowledged prior art discloses openings (24) formed in the frame forming lips (20) adapted to receive track flanges (38), and openings (24) defined in the walls (16) at the corners thereof whereby the track flanges (38) may extend therethrough permitting said lips

(18, 20) and winch frame to be slidably mounted on the track (34), the lips comprise first (18) and second (20) parallel lips defined on the frame base, said lips (18, 20) having ends, said openings defined in the wall (16) at the corners being in alignment with said lip ends (18, 20) and the longitudinal projection of said lips.

The first lip (18) is defined by the first lateral side of the base, a slot (22) defined intermediate the base sides (16), said slot defining the second lip (20), notches (24) defined in the base first lateral side (16) and the wall corners adjacent the base first lateral side (16), said notches defining said openings (24) in alignment with said first lip.

The acknowledged prior art does not disclose forming the winch from a flat elongated blank then bending the blank end regions. French '619 disclose a tensioning mechanism using a pawl-controlled winder comprising a U-section base (1, 2) which is formed from folded sheet metal. It is readily evident that a monolithic base piece has increased structural rigidity. Moreover, the cost of manufacturing would decrease because intermediate steps such as welding would be eliminated. The prior art discloses a base comprised of separate base plates welded together. Thus, it would have been obvious to one of ordinary skill in the art to make the separate base plates of the acknowledged prior art of a monolithic piece by bending the blank

end regions of a flat elongated plate, as taught by French '619, to increase the structural rigidity thereof as well as to decrease the cost of manufacturing.

The acknowledged prior art does not disclose the simultaneous step of forming the plate blank, notches, slot, and openings. However, it would have been obvious to one of ordinary skill in the art to simultaneously perform the steps to reduce the time required to manufacture the base.

Applicant's arguments filed May 15, 1997 have been fully considered but they are not persuasive. .

In response to applicant's remarks bridging pages 3 and 4 regarding the use of French '619, it should be noted that the test for combining references is not what the first one and then the other reference discloses individually. Rather, it is what the combination of the teachings, as a whole, would have fairly suggested to one of ordinary skill in the art, *In re Keller*, 208 USPQ 871 (CCPA 1981). Further, in evaluating such references, it is proper to take into account not only the specific teachings, but also the inferences which one of ordinary skill would reasonably be expected to draw therefrom, *In re Preda*, 159 USPQ 342 (CCPA 1968). The acknowledged prior art (Figures 1 and 2 of the instant application) shows a non-homogeneous structure and French '619 discloses a unitary structure. One versed in the art

would have readily recognized the implicit teaching of greater structural rigidity due to the removal of discontinuities such as those present in the acknowledged prior art. This teaching provides the clear motivation to modify the acknowledged prior art to be made from a single blank sheet which would be subsequently folded. Moreover, it has been held that forming in one piece an article which has formerly been formed from a plurality pieces involves no more than ordinary skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

Serial Number: 08/618,252  
Art Unit: 3503

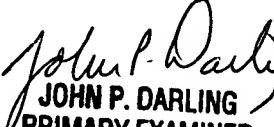
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel M. Marcelo whose telephone number is (703) 305-6597. The examiner can normally be reached on Monday to Friday from 8 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone number for this Group is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

emm   
August 8, 1997

  
JOHN P. DARLING  
PRIMARY EXAMINER  
GROUP 3500